

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

GREGORY ANTONIO WRIGHT,  
  
Plaintiff,  
  
v.  
  
GRANT AUSTIN, et al.,  
  
Defendants.

CASE NO. C15-5887BHS  
  
ORDER ADOPTING REPORT  
AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable J. Richard Creatura, United States Magistrate Judge (Dkt. 45), and Plaintiff Gregory Antonio Wright’s (“Plaintiff”) objections to the R&R (Dkt. 46).

On December 30, 2015, Plaintiff filed his complaint. Dkt. 8. On March 14, 2016, Judge Creatura ordered Plaintiff to show cause why his complaint should not be dismissed for failure to state a claim. Dkt. 18. On April 26, 2016, lacking a response from Plaintiff, Judge Creatura again ordered Plaintiff to file an amended complaint or show cause why his complaint should not be dismissed on or before May 27, 2016. Dkt. 19. Plaintiff filed his second amended complaint on May 19, 2016. Dkt. 20.

On December 22, 2016, Defendants moved for summary judgment. Dkt. 35. In support of their motion, Defendants submitted declarations and a DVD containing jail

1 surveillance video. Dkts. 36, 37, 38, 39. On January 17, 2017, Plaintiff submitted a letter  
2 with attached photos that he argues support his claim. Dkt. 42. Judge Creatura construed  
3 this letter and attachments as a response to Defendants' motion for summary judgment.  
4 *See* Dkt. 43. On January 20, 2017, Defendants replied. Dkt. 44.

5 On February 2, 2017, Judge Creatura issued the R&R, recommending that the  
6 Court grant Defendants' motion for summary judgment and dismiss Plaintiff's claims for  
7 failure to exhaust administrative remedies. Dkt. 45. On March 6, 2017, Plaintiff objected  
8 to the R&R. Dkt. 46. On March 24, 2017, Defendants responded. Dkt. 47.

9 The district judge must determine de novo any part of the magistrate judge's  
10 disposition that has been properly objected to. The district judge may accept, reject, or  
11 modify the recommended disposition; receive further evidence; or return the matter to the  
12 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

13 Plaintiff's objections do not address Judge Creatura's basis for dismissal.  
14 Petitioner argues that he was not allowed to file grievances while placed on suicide  
15 watch, but the R&R focuses on his failure to pursue administrative remedies upon his  
16 release. Dkt. 45 at 9–10. The Court agrees with the R&R. The fact that Plaintiff filed  
17 numerous unrelated grievances after the events giving rise to his lawsuit indicate that  
18 Plaintiff was able to pursue the Jail's administrative remedies, but simply failed to do so.  
19 *See* Dkt. 36 at 3.

20 Also, although Plaintiff levels serious allegations surrounding his recent inability  
21 to file a grievance while on suicide watch—namely, that he was provided two grievances  
22 without writing utensils and then instructed to write his grievances in blood—these

1 allegations are unrelated to the claims set out in Plaintiff's amended complaint.<sup>1</sup> The  
 2 allegations in Plaintiff's objections deal with recent events and the grievance forms  
 3 attached to his objections are dated recently. *See* Dkt. 46. Plaintiff's complaint, however,  
 4 is based on alleged incidents occurring in 2015. Dkt. 20. Plaintiff's allegations pertaining  
 5 to recent events do not state any cognizable objections to the R&R or Judge Creatura's  
 6 basis for recommending the dismissal of the claims asserted in the complaint.

7 As a final note, the Court informs Plaintiff that, in the future, any documents  
 8 appearing or purporting to be written in bodily fluids will be rejected by the Clerk and  
 9 immediately destroyed, without submission to the Court.

10 The Court having considered the R&R, Plaintiff's objections, and the remaining  
 11 record, does hereby find and order as follows:

12 (1) The R&R is **ADOPTED**; and

13 (2) This action is **DISMISSED**.

14 Dated this 29th day of March, 2017.

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17 BENJAMIN H. SETTLE  
 United States District Judge

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 21 <sup>1</sup> The Court notes that Plaintiff's allegations are belied by (1) the content of the grievance forms  
 22 attached to his objections, (2) the fact that he submitted to the Court the original grievance forms that  
 were written in blood—meaning that they were not actually used as grievances—and (3) the fact they are  
 attached to a letter written in ink.